

## **REMARKS**

This application has been carefully reviewed in view of the above-referenced Office Action, and reconsideration is requested in view of the following remarks.

### **Regarding the Claim Objections**

The errors in claim references of several dependent claims as noted by the Examiner have been corrected. The undersigned appreciates the Examiner's phone calls regarding these errors and regrets the inconvenience these minor errors caused.

### **Regarding the Rejections Under 35 U.S.C. §103**

In order to establish that the claims are obvious, the Patent Office must carry out the factual inquiries of *Graham v. Deere* as noted in the prior response, and further must articulate reasoning for making any proposed combination.

In each of the rejections appearing in the current Final Office Action, the Lu, Pinder and Chen references are combined, sometimes in combination with other references. However, one need only consider these three references as applied to the independent claims.

The Lu reference is used to show receiving a stream from the host, decrypting packets, and sending the stream back to the host. However Lu is silent on manipulation of any selectively encrypted or multiple selectively encrypted content stream.

The Pinder reference is asserted to teach selectively encrypting a signal. However, it is noted that Pinder describes a device used for generating a multiple partially encrypted signal, but is all but silent on decryption or other receiver processing of such a signal. Pinder further provides for multiple partial encryption in which certain critical packets are encrypted under multiple encryption devices (e.g., scramblers 410 and 415). Pinder describes streams having packets with different PIDs for encrypted packets than clear packets, but it is noted that the remapping is carried out in preparation of content for transmission – not in a receiver's CableCARD device as claimed in all claims.

The Chen reference describes a content insertion technique, and is again related to generation of such signals (e.g., at a cable system headend – see col. 2, lines 15-17), while remaining silent on receiver processing of such signals. As a part of Chen’s process, content that is inserted has its PID remapped (along with other operations) for the purpose of inserting content into a video stream. The Patent Office asserts that Chen discloses remapping secondary PIDs to a Primary PID in a client device and references Col. 21, line 65 to Col. 22, line 2. This portion of Chen states explicitly “For example, it is possible to locate the IPU in the decoder at the subscriber’s home, thereby providing the subscriber with the capabilities of a in-home digital data mixer such as those used at television, radio and recording studios.” The IPU is an “insertion processing unit” and is shown, for example, in Fig. 3. The IPU takes two streams MS and IS and inserts one stream inside the other. Hence, the referenced text merely indicates that the IPU could operate in some mode to permit a subscriber to insert one stream into another. This would appear inadequate to teach or suggest anything of particular relevance to the present claims.

Chen is further asserted to teach selecting certain packets for remapping of the packet identifiers associated with the selected packets at Fig. 4, and col. 6, lines 6-12. Applicants respectfully disagree. Chen merely discloses at this referenced location that an insertion stream parser (ISP) receives inputs which designate a starting time and an ending time for the insertion. The Patent Office has erred in ignoring the clear reference to the selected packets comprising certain of the encrypted packets. (This language has been clarified by amendment to certain of the claims.) That is, the selected packets as claimed are encrypted packets that are selected for remapping. There is no teaching in Chen adequate to teach such selection in accordance with the packets being encrypted or having a particular PID.

The Patent Office has also failed to fully consider that each of the functions called out in the claims are carried out within a CableCARD device. Applicant recognizes that the Patent Office may be reluctant to consider limitations called out in the claim preamble, and thus, the undersigned has amended the claims to place this feature explicitly in the body of the claims. It is noted that the operation of a CableCARD does not conventionally include operations that deal

with multiple selectively encrypted content having PIDs identifying multiple copies of encrypted content.

Claim 1 is cancelled by this amendment, and has been redrafted as claim 63. Claim 63 claims substantially similar subject matter to prior claim 1, but has been redrafted to simplify the language of the claim for clarity. Claim 63 calls out a process for decryption of a selectively encrypted stream of content in which the selectively encrypted packets have a PID which differs from that used for clear content. This process involves identifying those packets having the different PID and remapping such PIDs to a PID which is used for clear content. This process outputs a stream of content which previously had dissimilar PIDs into a stream which is decrypted and then re-encrypted for transport back from the CableCARD back to the host. None of the cited art singly or in combination teaches the claimed mechanism for use in a CableCARD in which one type of encryption is isolated by virtue of a specified PID, the PID is remapped for decryption and creation of an output stream therefrom. The Chen patent only deals with use of PID remapping for content insertion, and none of the cited references teach or suggest carrying out a PID remapping process within a CableCARD device to effect converting the multiple partially encrypted stream into a single encrypted stream that unifies content with different PIDs as claimed. The Pinder reference shows one technique for creation of a multiple selectively encrypted video stream, but fails to articulate a process for isolating one of the encrypted pair in a CableCARD device. Accordingly, reconsideration and allowance of claim 63 and all claims now dependent therefrom is respectfully requested.

Claim 23 has been replaced by claim 64 for reasons similar to that noted above for claim 1. The same arguments favoring patentability of claim 63 is applicable to claim 64. Accordingly, reconsideration and allowance of claim 64 and all claims now dependent therefrom is respectfully requested.

Claim 58 has been amended to clarify that the actions are carried out in a CableCARD device. The cited references taken singly or in combination fail to teach any mechanism for

selection of packets from a multiple selectively encrypted stream of data to permit decryption of encrypted packets having a PID that differs from the PID of clear packets while discarding other encrypted packets having differing PIDs. Accordingly, reconsideration and allowance of claim 58 and all claims now dependent therefrom is respectfully requested.

In order to establish *prima facie* obviousness of the claims, it is the Patent Office's burden to apply the Graham v. John Deere, 383 U. S. 1 (1966) framework for applying the statutory language of §103 in making an objective analysis of obviousness. The Court stated that "under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented."

The Patent Office further has the burden of providing an articulated reasoning why one of ordinary skill in the art would find the proposed combination to be obvious per *In re Kahn*, 441 F. 3d 977, 988 (CA Fed. 2006) - "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness"). It is further noted that MPEP2141.02 clearly requires that the claim be considered as a whole. Such consideration requires that each and every claimed feature as well as its interconnection and relationship with the other features be considered in evaluation of the differences in the claim and the prior art as required in the Graham inquiries.

In the present case, while many of the attributes of the claims have been identified in the cited art, their interconnection and relationship with each other have not been fully identified in the cited art. In the absence of such interconnection and relationship, an articulated reasoning must be provided as to why one of ordinary skill in the art would find it obvious to combine the various features in the manner claimed. In the absence of such an articulated reasoning, the

Patent Office is merely picking and choosing from the various art for the purpose of creation of a rejection. It is noted that the claimed invention “as a whole” must be considered in examination.

In the present case, the Patent Office has provided barely more than conclusions that the combination proposed would be obvious. By way of example, the rationale provided for combining the teachings of Chen is “to provide the benefit of inserting messages into a video stream.” However, such benefit is neither achieved nor sought in connection with the present claims. In Applicants’ claims, content is stripped from the video stream and a portion of the stream is selected for PID remapping and decryption to produce a cohesive decoded video stream. Hence, there is no articulated reasoning that would logically lead one of ordinary skill in the art to make the proposed combination.

The reason espoused for combining Lu with Pinder is to allow client devices with multiple encryption schemes to operate on the same network. But, this proposed combination does not lead to this result without proper consideration for PID remapping at the receiving device. In the absence of such teaching, the Chen reference is invoked, but Chen only teaches use of PID re-mapping as a part of a content insertion arrangement. Reconsideration and allowance are respectfully requested.

### **Concluding Remarks**

The undersigned notes that many other distinctions exist between the cited art and the claims. However, in view of the clear distinctions pointed out above, further discussion is believed to be unnecessary at this time. Failure to address each point raised in the Office Action should accordingly not be viewed as accession to the Examiner’s position or an admission of any sort.

### **Interview Request**

In view of this communication, all claims are now believed to be in condition for allowance and such is respectfully requested at an early date. If further matters remain to be resolved, the undersigned respectfully requests the courtesy of an interview. The undersigned can be reached at the telephone number below.

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Respectfully submitted,

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